

Amend 2 Cal. Code Regs. to read;

18225.7. Made at the behest of

(a) "Made at the behest of" means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of. Such arrangement must occur prior to the making of a communication described in Government Code Section 82031.

[Decision 1] (b) Expenditures "made at the behest" of a candidate or committee include expenditures:

(1) Made by or through the candidate or committee, or

(2) Made by a person other than the candidate or committee, to fund a communication relating to one or more candidates or ballot measures "clearly identified" as defined at 2 Cal. Code Regs. Section 18225(b)(1), which is created, produced or disseminated;

(A) After the candidate or committee has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication, or

(B) After discussion between the creator, producer or distributor of a communication, or the person paying for that communication, and the candidate or committee, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, the result of which is agreement on any of these topics;

~~(b)~~ (c) An expenditure is presumed to be made at the behest of a candidate or committee if it is:

(1) Based on information about the candidate's or committee's campaign needs or plans provided to the expending person by the candidate, committee, or agents thereof; or

(2) Made by or through any agent of the candidate or committee in the course of ~~their~~ the agent's involvement in the current campaign; or

[Decision 2] (3) For a communication relating to a clearly identified candidate or ballot measure when:

(A) The person making the expenditure retains the services of a person who provides
[Decision 2a] or, during the same election cycle/within six months prior to the expenditure has provided,]the candidate or committee supporting or opposing the ballot measure with

professional services related to election strategy or advocacy, including polling, research, media consulting and advertising planning, or

(B) The communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate or committee.

[Decision 3] ~~(e)~~ (d) In addition to the presumptions described in subdivision (c), there shall be a presumption that an expenditure related to soliciting funds on behalf of a candidate or committee is made at the behest of that candidate or committee.

(e) An expenditure is not made at the behest of a candidate or committee merely when:

(1) A person interviews a candidate on issues affecting the ~~expending person, provided that prior to making a subsequent expenditure, that person has not communicated with the candidate or the candidate's agents concerning the expenditure;~~ person making the expenditure, or discusses matters unrelated to the candidate's or committee's campaign, or

(2) The ~~expending~~ person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate or the candidate's agents.

[Decision 4, or

(3) A person makes an expenditure in response to a public request for support by a candidate or committee, provided that there is no discussion with the candidate or committee prior to the expenditure relating to the candidate's or committee's campaign needs or strategy, or to details of the expenditure, or

(4) The person making the expenditure has invited the candidate or committee to make a public appearance before the person's members, employees, shareholders, or the families thereof, provided that there is no discussion with the candidate or committee prior to the expenditure relating to the candidate's or committee's campaign needs or strategy, or to details of the expenditure, or

(5) A person informs a candidate or committee that the person intends to make, or has made, an expenditure, provided that there is no exchange of information, not otherwise available to the public, relating to the candidate's or committee's campaign needs or strategy, or to details of the expenditure, or

(6) The expenditure is made at the request or suggestion of the candidate or committee for the benefit of another candidate or committee.

(f) As used in this section the term “candidate” includes the candidate’s controlled committee and the agent of either, when the agent is acting within the course and scope of his or her agency. The term “committee” refers to a committee under subdivision (a) of Government Code section 82013, and the agent of such a committee, when the agent is acting within the course and scope of his or her agency.

Note: Authority cited: Section 83112, Government Code.

Reference: Sections 82015, 82025 and 82031 Government Code

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